

**FILED**

JUN 23 2005

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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10  
11 UNITED STATES DISTRICT COURT  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
13

14 GREGGORY CLARK, an incompetent  
person, by and through his Guardian Ad  
15 Litem, Michelle Ellis-Clark; and  
MICHELLE ELLIS-CLARK

16 Plaintiffs,  
17

18 vs.  
19

MERCK & Co.; a foreign corporation, and  
DOES 1 through 10

20 Defendants.  
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Case No.: 4:05-cv-01930-MHP

**STIPULATION AND ~~PROPOSED~~ ORDER  
STAYING PROCEEDINGS PENDING  
TRANSFER TO *IN RE VIOXX PRODUCTS*  
LIABILITY LITIGATION, MDL NO. 1657**

1 The parties, by and through their counsel, stipulate to and respectfully request a stay of all  
2 proceedings in this action pending the transfer of this case to *In re VIOXX Products Liability*  
3 *Litigation*, MDL No. 1657.

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5 Plaintiff Gregory Clark, by and through his Guardian Ad Litem, Michelle Ellis-Clark,  
6 alleges personal injuries that he attributes to the prescription drug VIOXX®. Defendant Merck &  
7 Co., Inc. ("Merck") manufactured and distributed VIOXX®, but voluntarily withdrew VIOXX®  
8 from the market on September 30, 2004.

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10 On February 16, 2005, the Judicial Panel on Multidistrict Litigation ("JPML") issued an  
11 order transferring 148 VIOXX®-related cases to the United States District Court for the Eastern  
12 District of Louisiana for coordinated pretrial proceedings under 28 U.S.C. § 1407. Merck intends to  
13 seek the transfer of this action to that Multidistrict Litigation, *In re VIOXX Products Liability*  
14 *Litigation*, MDL No. 1657, and shortly will provide the JPML with notice of this action pursuant to  
15 the procedure for "tag along" actions set forth in the rules of the JPML. A stay will potentially  
16 conserve judicial resources and will not cause unfair prejudice to the parties. *See Rivers v. Walt*  
17 *Disney Co.*, 980 F. Supp. 1358, 1360 (C.D. Cal. 1997) (stay pending MDL transfer decision action  
18 would further judicial economy because "any efforts on behalf of this Court concerning case  
19 management will most likely have to be replicated by the judge that is assigned to handle the  
20 consolidated litigation").

21  
22 Based on the foregoing, the parties respectfully request that the Court stay this action  
23 pending its transfer to MDL No. 1657.

1 DATED: May 13, 2005.

2 REED SMITH LLP

3  
4 By

Kevin M. Hara  
Attorneys for Defendant  
Merck & Co., Inc.

5  
6 DATED: May 24, 2005.

7 FURTADO JASPOVICE & SIMMONS

8  
9 By

Richard J. Simons  
Attorneys for Plaintiffs  
Greggory Clark and Michelle Ellis-Clark

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15 ORDER

16 Having considered the foregoing stipulation and good cause appearing therefore, IT IS SO  
17 ORDERED.

18  
19 DATED:

20 6/22/05

21  
22 United States District Judge